

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

OHIO RIVER VALLEY ENVIRONMENTAL
COALITION, INC.

Employer

and

Case 09-RC-276218

OVEC UNION AFFILIATED WITH THE
INDUSTRIAL WORKERS OF THE WORLD

Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

LAUREN McFERRAN,

CHAIRMAN

MARVIN E. KAPLAN,

MEMBER

JOHN F. RING,

MEMBER

Dated, Washington, D.C., September 28, 2021.

¹ The Board has exercised its discretion to examine the entire record in evaluating the Employer's Request for Review. See Sec. 102.67(e) of the Board's Rules and Regulations.

In denying review, we correct the Regional Director's formulation that appears to conflate certain elements of the authority to assign and the authority to responsibly direct work. Specifically, we note that: (1) while the giving of "significant overall duties" is required to establish the authority to assign or effectively recommend assignment, it is not required to establish responsible direction; and (2) "accountability" is germane to responsible direction but not assignment.

In addition, we find that the Employer's argument concerning the Director of Organizing's putative authority to reward employees—which consists of a single sentence—does not comply with Sec. 102.67(e)'s requirement that a request for review "must be a self-contained document enabling the Board to rule on the basis of its contents without the necessity of recourse to the record." In any event, we agree with the Regional Director that the evidence presented is insufficient to meet the Employer's evidentiary burden with respect to the authority to reward, or indeed to any other supervisory indicium under Sec. 2(11) of the National Labor Relations Act. See *Avante at Wilson, Inc.*, 348 NLRB 1056, 1057 (2006) ("[T]he evidence still must suffice to show that [Sec. 2(11)] authority actually exists.").

Finally, we do not rely on the Regional Director's citation to *PPG Aerospace Industries, Inc.*, 353 NLRB 223 (2008), which was decided by a two-member Board. See *New Process Steel, L.P. v. NLRB*, 560 U.S. 674 (2010).